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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,820	02/25/2002	Moshe Rock	10638-010001	3789
26161	7590	05/21/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			DAHBOUR, FADI H.	
			ART UNIT	PAPER NUMBER

3743

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,820

Applicant(s)

ROCK ET AL.

Examiner

Fadi H. Dahbour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 13-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 7, 9-12, 17 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 13, 15, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date filed 3/22/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The Examiner acknowledges Applicant's submission of the election of claims 1-6, 8, 13-16, 18-19, filed on 3/5/2004. Claims 7, 9-12, 17, 20-26 being withdrawn from consideration as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 18 recites the limitation "of claim 18" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 19 recites the limitation "of claim 19" in line 1. There is insufficient antecedent basis for this limitation in the claim. Corrections are required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 15, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gross et al (US4021640).

Gross discloses an electric heating/warming composite fabric article (Figs.1-6), comprising a fabric layer (11 of Fig.3) having an inner surface and an outer surface (see

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top and bottom of 11 in Fig.3), a barrier layer disposed at the inner surface of the fabric layer (see "the strip 12...provide an insulation barrier" in lines 38 & 47 of col.2, also see 12 of Fig.3) and having an inner surface and an outer surface (see top and bottom of 12 in Fig.3), and an electric heating/warming element (30 of Fig.5) comprising a flexible electricity-conducting film (32 of Fig.5), the element disposed between (30 of Fig.3) the outer surface of the barrier layer (12 of Fig.3) and the inner surface of the of the fabric layer (11 of Fig.3), the heating/warming element being adapted to generate heating/warming when connected to a power source (47 of Fig.6), wherein the electric heating/warming element (30 of Fig.3) is disposed upon the outer surface of the barrier layer (12 of Fig.3), wherein the outer surface of the barrier layer is secured upon the inner surface of the fabric layer (Fig.2), wherein the electric heating/warming element is stretchable (Figs.1-6), wherein the fabric layer is hydrophobic (see "hydrophobic" in line 52 of col.3), wherein the electric heating/warming element is resistant to stiffening and cold crack (see "gloves and mittens...under extreme frigid conditions" in lines 5-7 of col.1), wherein the electrically-conducting film further comprises conductive particles (32 of Fig.5, also see "conductive" in line 39 of col.4).

Claims 1-5, 8, 13, 15, 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Fennekels et al (US4713531).

Fennekels discloses an electric heating/warming composite fabric article (Figs.1-3), comprising a fabric layer (1 of Fig.1) having an inner surface and an outer surface (see bottom and top of 1 in Fig.1), a barrier layer disposed at the inner surface of the fabric layer (4 of Fig.1), the barrier layer having an inner surface and an outer surface

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(see bottom and top of 4 in Fig.1), an electric heating/warming element (3 of Fig.1) comprising a flexible electrically-conducting film (see "imprinting...in the form of a paste" in line 23 of col.3), the element disposed between (3 of Fig.1) the outer surface of the barrier layer (see top of 4 in Fig.1) and the inner surface of the fabric layer (see bottom of 1 in Fig.1), the heating/warming element being adapted to generate heating/warming when connected to a power source (see "connected to a source of electrical current" in lines 3-4 of abstract), wherein the electric heating/warming element (3 of Fig.1) is disposed upon the outer surface of the barrier layer (see top of 4 in Fig.1), wherein the outer surface of the barrier layer (see top of 4 in Fig.1) is secured at least adjacent to the inner surface of the fabric layer (see bottom of 1 in Fig.1), wherein the outer surface of the barrier layer (see top of 4 in Fig.1) is secured upon the inner surface of the fabric layer (see "imprinting...in the form of a paste on the textile fabric" in lines 23-24 of col.3), wherein the electric heating/warming element is stretchable (3 of Fig.1), wherein the barrier layer is micro-porous hydrophobic (see "polytetrafluoroethylene" in lines 13-14 of col.3), wherein the barrier layer is resistant to passage of air and water droplets and permeable to water vapor (see "polytetrafluoroethylene" in lines 13-14 of col.3), wherein the electric heating/warming element is resistant to stiffening and cold crack (see "jacket...overcoats...diver garments...gloves" in lines 65-68 of col.3), wherein the electricity-conducting film further comprises conductive particles comprising at least one of silver and graphite (see "graphite" in line 26 of col.3).

Claim Rejections - 35 USC § 103

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gross et al (US4021640).

Gross, as described above, discloses all the features claimed except a resistivity in the range of about 100 ohm-cm to 0.000001 ohm-cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a resistivity in the range of about 100 ohm-cm to 0.000001 ohm-cm, in the device of Gross, because it is dependent on the particular application of the heater.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fennekels et al (US4713531).

Fennekels, as described above, discloses all the features claimed except a resistivity in the range of about 100 ohm-cm to 0.000001 ohm-cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a resistivity in the range of about 100 ohm-cm to 0.000001 ohm-cm, in the device of Fennekels, because it is dependent on the particular application of the heater.

Allowable Subject Matter

9. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Fadi H. Dahbour
Examiner
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